IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3343 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KANTILAL RAMBHAI PATEL - Petitioner
Versus
DIRECTOR OF ANIMAL HUSBANDARY & 2 - Respondents

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Appearance :

MR BHARAT JANI for Petitioner:
MR SP HASURKAR for Respondent: 1,
MR. KETAN DWIVEDI, LD. AGP for Respondent: 1 - 2.
RULE SERVED for Respondent: 3,

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 22/08/2007

ORAL JUDGMENT

Heard learned counsels for the parties.

1. The petitioner has challenged non-granting of benefit of higher pay scale on completion of 18 years service as per the policy of the respondent under Article 226 of the Constitution of India.

2. The brief facts deserved to be set out for the sake of appreciating the controversy in the matter.

2.1 The petitioner was appointed as Vehicle Supervisor on a purely temporary and adhoc basis in the pay scale of Rs.100-170 vide order dated 19/3/1969. Thereafter petitioner came to be posted on deputation to Rajkot District Gopalak Dudh Utpadak Sahkari Sangh Ltd, Rajkot, where from he was repatriated to the office of TCM Rural,Junagadh against the vacant post of Fieldman on the same pay scale of which he was receiving. This was the order made on 6/8/1972. The petitioner is treated to have been regularly appointed in the pay scale of Rs.130-240 on the post of Computer vide order dated 7/10/1974. It is the say of the petitioner that his appointment which was effected on 6/8/1972 should be taken into consideration for reckoning 18 years of period for getting second higher grade pay scale.

3. Respondents have filed reply affidavit and therein it is clearly stated that due to non

availability of the post carrying equivalent pay scale in the department the petitioner who was originally working as Vehicle Supervisor had to be posted against the post of Fieldman in the pay scale of Rs.130-240. The benefit of first higher pay scale under the scheme was granted to the petitioner on his completion of 9 years of service. However for the second higher pay scale he is not entitled as he has not completed the required years of service. The petitioner's say that 6/8/1972 is to be reckoned for granting him higher grade pay scale can not be accepted.

4. Looking to the affidavit in reply and the averments made therein, the counsel for the petitioner could not dispute the fact that the petitioner had not admittedly completed 18 years of service when he retired in the year 1991. Therefore, this petition deserves to be dismissed as it is misconceived. The petitioner can not claim the benefit of second higher grade pay scale as he had not completed 18 years service in the same scale. In view of this, the petition fails and is hereby dismissed. Rule discharged. Interim relief, if any granted earlier, shall stand vacated. No cost.

[S.R. BRAHMBHATT, J]

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